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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,813	09/12/2003	Hemant P. Mungekar	A7600P1/T51700	7055

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 10/24/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/660,813	Applicant(s) MUNGEKAR ET AL.	
	Examiner Rodney G. McDonald	Art Unit 1795	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 01 August 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/Rodney G. McDonald/
Primary Examiner, Art Unit 1795

Continuation of 10. Other (including any explanation in support of the above items): Appellant has tried to respond to a previous notice of noncompliance sent out by Timothy Cole a patent appeals specialist stating that

"Claims 6 and 8-10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Papasouliotis '745 in view of Bayman as applied to claims 1-5, 7, 11-15, 17, 18, 20-24, 26 and 27, and further in view of U.S. Pat. 5,756,402 to Jimbo et al. ("Jimbo"). Claims 16, 19, 25 and 28 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Papasouliotis '745 in view of Bayman as applied to claims 1-5, 7, 11-15, 17, 18, 20-24, 26 and 27 and further in view of U.S. Pat. No. 6,794,290 to Papasouliotis et al. ("Papasouliotis '290"). These rejections are not subject of the appeal. Appellants do not, however, concede the rejection of these claims."

It is unclear if these claims (i.e. 6, 8-10, 16, 19, 25, 28) are meant to stand or fall with the other claims of Issue 1 of the brief or are separately arguable since Appellant states that they do not concede the rejection of these claims (i.e. 6, 8-10, 16, 19, 25, 28). It is unclear what the basis is for not conceding the rejections (i.e. there is not separate argument for these claims). Additionally it is stated that these claims (i.e. 6, 8-10, 16, 19, 25, 28) are not subject of the appeal. Does this mean that the rejections will stand against the claims (i.e. 6, 8-10, 16, 19, 25, 28)?

The Primary Examiner sends out this new notice of noncompliance to alleviate any confusion for the Board and suggests placing under section 6. Grounds of Rejection To Be Reviewed On Appeal the grounds of rejections discussed above (i.e. the rejections based on claims 6, 8-10, 16, 19, 25, 28).

For example:

6. Grounds of Rejection To Be Reviewed On Appeal

Issue 1: Whether claims 1-5, 7, 11-15, 17, 18, 20-24, 26 and 27 were properly rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. 6,846,745 to Papasouliotis et al. ("Papasouliotis '745") in view of U.S. Pat. No. 6,596,654 to Baymen et al. ("Baymen").

Issue 2: Whether claims 6 and 8-10 were properly rejected under 35 U.S.C. 103(a) as being unpatentable over Papasouliotis '745 in view of Bayman as applied to claims 1-5, 7, 11-15, 17, 18, 20-24, 26 and 27, and further in view of U.S. Pat. 5,756,402 to Jimbo et al. ("Jimbo").

Issue 3: Whether claims 16, 19, 25 and 28 were properly rejected under 35 U.S.C. 103 (a) as being unpatentable over Papasouliotis '745 in view of Bayman as applied to claims 1-5, 7, 11-15, 17, 18, 20-24, 26 and 27 and further in view of U.S. Pat. No. 6,794,290 to Papasouliotis et al. ("Papasouliotis '290").

The Examiner also suggests in the arguments section simply state that the claims of issues 2 and 3 are allowable for the same reasons that the claims of Issue 1 are allowable as previously argued by Appellant. This would be done if appellant wants the claims of Issues 2 and 3 to stand or fall with the claims of Issue 1. If not the Appellant should provided separate arguments for Issues 2 and 3.

The Examiner believes these suggestions should alleviate the confusion discussed above.